

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No: 1:18-cr-20504

DECHAUN ANDREW SMITH,

Hon. Thomas L. Ludington

Defendant.
_____ /

**ORDER DENYING ORAL MOTIONS TO DISMISS THE SUPERSEDING
INDICTMENT, TO DISMISS THE ORIGINAL INDICTMENT, TO SUPPRESS THE
CRIME LAB REPORT, AND FOR IMMEDIATE RELEASE**

On March 18, 2019, a pre-trial status hearing was held to discuss trial procedure. At the hearing, Defendant made four oral motions: 1) motion to dismiss the superseding indictment; 2) motion to suppress the lab report; 3) motion to dismiss both the original and superseding indictment; 4) motion for immediate release.

I.

Defendant moved to dismiss the superseding indictment on the following grounds: Officers Powell and Brice uttered racial slurs at him while transporting him in between hearings, and improperly questioned him during these drives outside the presence of his counsel. Defendant's allegations were contested. Most importantly, the government has not sought to introduce into evidence any of the statements made by the Defendant in response to allegedly improper questioning by the officers.

II.

Defendant moved to suppress the state crime lab report because his first name was spelled “Deshawn” instead of “Dechaun.” The misspelling of his first name in no way justifies suppressing the lab report.

III.

Defendant moved to dismiss both indictments due to alleged defects in the grand jury proceedings. According to the Defendant, a grand juror asked counsel for the government why this case was in federal court as opposed to state court. Counsel for the government responded that it was in federal court because the drug quantity exceeded 28 grams. Defendant points out that the crime lab report ultimately revealed only 27 grams. 28 grams is by no means a threshold for federal jurisdiction. *See* 21 U.S.C. § 841(a)(1). Rather, counsel for the government explained that the drug quantity is simply one of the factors that his office considers when determining whether to take a case or defer to the state prosecutors’ office.

Defendant also contends that the grand jury was presented with statements the Defendant made in custody, and that those statements were obtained in violation of his constitutional rights. Defendant is not entitled to relief, however, because the exclusionary rule is inapplicable to grand jury proceedings. *United States v. Calandra*, 414 U.S. 338, 353(1974).

IV.

Defendant’s motion for immediate release did not appear to be supported by any independent argument. Rather, his argument in support of that motion was co-extensive with his other arguments. In other words, if he prevailed on his other motions, he would also like to be released from custody immediately.

V.

Accordingly, for the reasons stated above as well as on the record, it is **ORDERED** that Defendant's oral motions are **DENIED**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: March 28, 2019

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney of record herein by electronic means and to **Dechaun Andrew Smith**, Bay County Jail, 503 Third Street, Bay City, MI 48708 by first class U.S. mail on March 28, 2019.

s/Kelly Winslow
KELLY WINSLOW, Case Manager